

**FOR CLERK USE ONLY**

City Council

Item No.

6

**CITY COUNCIL AGENDA
FACT SHEET**

City Attorney

Department

February 16, 2010

Requested Date

1. Request:

Council Approval

☒Information Only/
Presentation☐

Other (specify)

☐

Hearing

☐**2. Requested Action:**ADOPTION OF ORDINANCE TO REZONE THE MEGAPARK PROPERTY TO BE CONSISTENT WITH THE
GENERAL PLAN.**3. Fiscal Impact:**

Revenue:

Increase

☐

Source:

Decrease

☐

Amount:

\$

Cost:

Increase

☐

Source:

N/A

Decrease

☐

Amount:

\$

Does Not Apply ☒**4. Reviewed By:**

Finance Dept. on

By:

Comments:

City Attorney on

Feb. 8, 2010

By:

Comments:

*Note: Back up must be submitted along with this form. Deadline is 5:00 p.m., 2 Fridays before the scheduled meeting date.***CLERK USE ONLY:**

CITY COUNCIL DATE:

Action

☐

Filing

☐

Consent

☐

Presentation

☐

Hearing

☐

Other(specify)

☐

Reviewed by: City Clerk

City Manager

Date

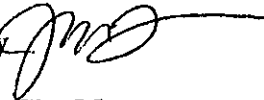
Date

**CITY COUNCIL
AGENDA REPORT**

**SUBJECT: ADOPTION OF ORDINANCE TO REZONE THE MEGAPARK
PROPERTY TO BE CONSISTENT WITH THE GENERAL PLAN.**

AGENDA DATE: February 16, 2010

PREPARED BY: Jennifer M. Lyon, City Attorney



APPROVED FOR AGENDA BY: Victor Carrillo, City Manager

RECOMMENDATION: Adopt ordinance by way of title only, waive full reading.

FISCAL IMPACT: N/A

ENVIRONMENTAL REVIEW: On May 1, 2007, by Resolution 07-83, the City Council certified an Environmental Impact Report, adopted a Statement of Overriding Considerations and adopted the 2007 General Plan Update. The proposed zoning amendment is consistent with, and implements the land use designations and regulations identified in the 2007 General Plan and analyzed in the General Plan EIR. Therefore, pursuant to CEQA Guidelines sections 15162, 15168 and 15183, no further environmental review is required. This action is being taken to rescind the land-use entitlement approvals for the Megapark development project, therefore this proposed action will have significantly less environmental effects than the formerly proposed development of approximately 155 acres of the Megapark project.

BACKGROUND INFORMATION: (Prior action/information)

Calexico Mega Park, LLC, on August 18, 2009, obtained approvals and entitlements to develop a mixed commercial project on APNs 059-001-002 and 059-001-003. On December 1, 2009, Calexico Mega Park, LLC requested the City rescind all approvals and entitlements for the Mega Park project including: the decertification of EIR 2009-01; rescinding General Plan Amendment 2007-10; rescinding Zone Change 2007-03; and vacating its approval of Tentative Subdivision Map 2009-01. On February 2, 2010, Council took action to approve resolutions which decertified the EIR, rescinded the previous general plan amendment, approved a general plan amendment to designate the land for 130 acres of medium density residential and 25 acres of commercial highway, and vacated approval of the tentative map.

DISCUSSION (Current consideration):

The action before the City Council is to adopt the attached ordinance to properly zone the Megapark land to be in conformance with the former land use designations of Commercial Highway (approximately 25 acres) and Medium Density Residential (approximately 130 acres). Any proposed future development on the site would require appropriate environmental review and land use approvals. An explanation of the zone

change is shown below.

1. Zone Change.

Prior to the August 18, 2009 project approvals, the Megapark land which is approximately 155 acres of land generally located on the southeast quadrant of Jasper Road and Highway 111 further described as APNs 059-001-002 and 059-001-003 was zoned IND, General Industrial which is different from the land use designation in the General Plan. On August 18, 2009, Council took action to rezone all 155 acres to CH, Commercial Highway. With the request to rescind all project entitlements, the rezone to CH will also be rescinded. To make the zoning consistent with the General Plan land use designation, the proposed ordinance will rezone the 155 acres from CH to 25 acres as CH and 130 acres as R-2. The R-2 zone was created to implement the General Plan land use designation of MDR.

The proposed Zone Change is consistent with the General Plan and the Housing Element. The City Council adopted the 2007 General Plan Update by Resolution No. 07-83 on May 1, 2007. The General Plan discusses a land use category called Medium Density Residential and designates certain land within the City (including the Megapark land) within such category. On February 2, 2010, the Council approved a resolution to amend the General Plan so that the land is designated as 130 acres of medium density residential and 25 acres of commercial highway. The proposed action will zone the Megapark land consistent with the land use designations approved on February 2, 2010 (and the land use designations that existed prior to August 18, 2009).

Attachments:

- 1. 12/1/09 Letter from Megapark**
- 2. City Council Ordinance re: Zone Change**

Agenda Item No. ____
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Sarah Ellen Owsowitz
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December 1, 2009

File No. 60288

VIA E-MAIL AND U.S. MAIL

Mayor David B. Ouzan
Mayor Pro Tem John Moreno
Honorable Members of the City Council
608 Heber Avenue
Calexico, California 92231

Re: Request for Rescission of Calexico MegaPark Project Approvals

Mayor Ouzan, Mayor Pro Tem Moreno and Honorable Council Members:

As part of Calexico MegaPark LLC's ("MegaPark") ongoing efforts to respond and adapt to the dramatic changes in Imperial County and the Country's economy, MegaPark is currently evaluating a variety of options for the development of some, or all, of the 150 acres of land generally located on the southeast quadrant of Jasper Road and Highway 111, commonly referred to as the Calexico MegaPark Project. To that end, and in order to preserve maximum flexibility for MegaPark as it considers how best to move forward with proposals for the development of these lands, MegaPark hereby requests that the City of Calexico rescind the following Project-related approvals: General Plan Amendment No. 2007-10, Zone Change No. 2007-03, and Tentative Subdivision Map No. 2009-01.

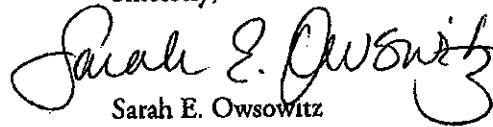
Consistent with this, MegaPark also requests that the City decertify the Calexico MegaPark Environmental Impact Report No. 2009-01 (State Clearinghouse Number 2007031043) and rescind its approval the related Findings of Fact, Statement of Overriding Consideration, and Mitigation Monitoring and Reporting Program. It is MegaPark's understanding that the City Council will be able to commence rescission of these approvals at its first meeting of 2010, January 5, 2010.

MegaPark anticipates submitting new proposals for the development of some or all of its property in 2010, and looks forward to working with the City to ensure that this development becomes a contributing part of Calexico's vision for an innovative, environmentally responsible, and well-planned City.

Mayor David B. Ouzan
December 1, 2009
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We thank the Council for its time and consideration of this request.

Sincerely,



Sarah E. Owsowitz

cc: Jennifer M. Lyon, City Attorney
Armando G. Villa, Director of Community Development

ORDINANCE NO. 2010-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALEXICO, CALIFORNIA, RESCINDING ZONE CHANGE NO. 2007-03 AND APPROVING ZONE CHANGE NO. 2009-02, REZONING 130 ACRES FROM COMMERCIAL HIGHWAY TO R2, A MEDIUM DENSITY RESIDENTIAL CATEGORY, AND ZONING APPROXIMATELY 25 ACRES AS COMMERCIAL HIGHWAY.

WHEREAS, Callexico Mega Park, LLC previously filed an application for a zone change from IND, General Industrial to CH, Commercial Highway zone for approximately 155 acres of land generally located on the southeast quadrant of Jasper Road and Highway 111 further described as APNs 059-001-002 and 059-001-003; and

WHEREAS, the City Council of the City of Calexico approved the requested rezone on August 18, 2009; and

WHEREAS, Callexico Mega Park, LLC has since requested that the City rescind all prior project related approvals, including the General Plan Amendment and Rezone;

WHEREAS, the Planning Commission held a duly noticed public hearing on January 4, 2010, and recommended to the City Council approval of Zone Change No. 2009-02, amending the text of Title 17, Zoning, of the City's Municipal Code to add the R2, Medium Density Residential classification and recommending the City Council approve Zone Change No. 2009-02, rezoning approximately 130 acres to R2 and approximately 25 acres to Commercial Highway; and

WHEREAS, the notice of the public hearing for the City Council's consideration of the zoning amendments was duly published and given in accordance with applicable provisions of the California Government Code;

WHEREAS, the City Council held a duly noticed public hearing on January 19, 2010 and February 2, 2010 at which time all interested parties were given an opportunity to address the City Council on these matters; and

WHEREAS, the City Council has considered the staff report and all documents pertaining to this approval and has considered the comments of City staff, City consultants, and all other interested persons.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CALEXICO DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS.

In accordance with State Planning and Zoning law, the City's 2007 General Plan, as amended, the 2007 General Plan Environmental Impact Report, and the relevant provisions of the City of Calexico Municipal Code, and based on substantial evidence in the record, the City Council of the City of Calexico hereby makes the following findings for the approval of Zone Change No. 2009-02:

**CITY COUNCIL ORDINANCE FOR
ZONE CHANGE NO. 2009-02**

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1. The facts recited above are true and correct and are hereby incorporated herein.
2. The Zone Change of approximately 130 acres from Commercial Highway (CH) to R2, and approximately 25 acres to Commercial Highway (CH) is consistent with the policies, goals, objectives, densities and permitted uses identified in the General Plan, as amended.
 - a. *In the 2007 General Plan, Land Use element, approximately 130 acres of the land was designated as Medium Density Residential and approximately 25 acres was designated as Commercial Highway. On August 18, 2009, the City Council amended the General Plan to change the designation of the 155 acres of the property to Commercial Highway and adopted an ordinance rezoning approximately 155 acres from IND, General Industrial, to Commercial Highway (CH). The General Plan has been amended to restore the Medium Density Residential designation to approximately 130 acres, and the remaining 25 acres will retain the Commercial Highway designation. The zoning code has been amended to add a medium density residential category, R2. The proposed new zoning would zone approximately 130 acres as R2, a zoning classification that corresponds to the Medium Density Residential (MDR) designation in the General Plan. The remaining 25 acres will be zoned as CH, Commercial Highway. These designations were originally approved in the 2007 General Plan and analyzed in the 2007 General Plan Environmental Impact Report.*
 - b. *The proposed zone change is consistent with the General Plan as amended, including the Housing Element (as amended.) Although the City has not identified this site in its inventory, the land will now be zoned R2, which provides for densities between 5.1 and 12 dwelling units per acre.*
 - c. *The proposed zone change complies with the goals and objectives of the General Plan, in that the approval of this zone change will assist in achieving the development of a well-balanced and functional mix of commercial and residential land uses to diversify Calexico's economic base. As such, the project will assist the City in promoting a diversified economic base by attracting new residential development in close proximity to commercial, retail, and office uses into the City. With increased commercial development, there will be increased employment opportunities and transition from a predominately agricultural economy to a more urban economy. These diversified commercial uses will respond to equally diversified market demands both in the United States and Mexico.*
3. The proposed Zone Change No. 2009-02 will not be; a) detrimental to the health, safety, comfort or general welfare of the persons residing or working within the neighborhood of the proposed amendment or within the City, or b) injurious to the property or improvements in the neighborhood or within the City.

The proposed Zone Change has been analyzed relative to its potential to be

**CITY COUNCIL ORDINANCE FOR
ZONE CHANGE NO. 2009-02**

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detrimental to the health, safety, comfort and welfare of the persons residing or working within the neighborhood and area of the proposed Zone Change. Staff concluded that the project does not propose land uses, densities, or development patterns that will jeopardize the health and safety of the persons residing or working within the neighborhood of the property. Health, safety, and welfare will not be degraded as a result of rezoning the property consistent with the amended General Plan designations.

4. On May 1, 2007, by Resolution 07-83, the City Council certified an Environmental Impact Report, adopted a Statement of Overriding Considerations and adopted the 2007 General Plan Update. The proposed zoning amendments are consistent with, and implement, the land use designations and regulations identified in the 2007 General Plan and analyzed in the General Plan EIR. Therefore, pursuant to CEQA Guidelines sections 15162, 15168 and 15183, no further environmental review is required.

SECTION 2. **Severability.** If any provision or clause of this ordinance or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other ordinance provisions or clauses or applications therefore which can be implemented without the invalid provision, clause or application, and to this end the provisions and clauses of this ordinance are declared to be severable.

SECTION 3.

- A. Zone Change No. 2007-03 is repealed and, to the extent it conflicts with Zone Change 2009-02, shall have no further force or effect. City Council Ordinance No. 1096 is hereby repealed.
- B. The Official Zoning Map of the City is amended to reflect Zone Change No. 2009-02, incorporated herein by reference, rezoning approximately 130 acres from Commercial Highway to R2, (Residential) and approximately 25 of the 155 acres as CH, Commercial Highway.

PASSED, APPROVED AND ADOPTED, at a regular meeting of the City Council of the City of Calexico, California, held on the 16th day of February, 2010.

City of Calexico

DAVID OUZAN, MAYOR

**CITY COUNCIL ORDINANCE FOR
ZONE CHANGE NO. 2009-02
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ATTEST:

LOURDES CORDOVA, CITY CLERK

APPROVED AS TO FORM:

JENNIFER M. LYON, CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF IMPERIAL) SS
CITY OF CALEXICO)

I LOURDES CORDOVA, CITY CLERK OF THE CITY OF CALEXICO, CALIFORNIA DO
HEREBY CERTIFY THAT UNDER PENALTY OF PERJURY THAT THE FOREGOING IS A
TRUE AND CORRECT COPY OF ORDINANCE NO. _____ THAT WAS DULY AND
REGULARLY INTRODUCED AT A REGULAR MEETING OF SAID CITY COUNCIL HELD ON
FEBRUARY 2, 2010 AND WAS ADOPTED BY SAID CITY COUNCIL AT A REGULAR
MEETING HELD ON FEBRUARY 16, 2010, BY THE FOLLOWING VOTE

AYES:
NOES:
ABSENT:
ABSTAIN:

LOURDES CORDOVA, CITY CLERK

SEAL